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NEWS RELEASE

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CITY ATTORNEY CALLS FOR FEDERAL OVERSIGHT OF CITY'S MUNICIPAL EMPLOYEE PENSION SYSTEM WHICH IS MORE THAN A $1 BILLION IN THE HOLE

PRIVATE PENSION PLANS REGULATED BY FEDS SINCE 1962

San Diego, CA—Municipal employee pension plans should have the same federal oversight provided to private pension plans under the federal Employee Retirement Income Security ACT (ERISA). That recommendation is contained in the latest investigative report released today by City Attorney Michael Aguirre who contends that the $1.4 billion deficit in the City pension system was caused by misconduct on the part of elected officials and union bosses who brokered a deal allowing the city to under fund the system in exchange for increased pension benefits.

That finding of misconduct was also made in 2006 by the U.S. Securities and Exchange Commission in their fraud investigation which reprimanded the City for not disclosing to investors the massive, intentional underfunding of its employee pension and health care plans in connection with the offer and sale in 2002 and 2003 of over $260 million in five separate municipal bond offerings.

"The root cause of the pension crash that plagues San Diego is the absence of active regulation of the City's pension system," said City Attorney Aguirre. "Private pensions are highly regulated under federal pension law by the U.S. Department of Labor and the same should apply to municipal employee pensions."

Aguirre's report has been sent to federal and state legislators for their review.

"A significant and obvious step would be to amend ERISA to allow for federal supervision of municipal pensions," said the City Attorney. "To do less would be to abrogate our responsibility to those who depend on this plan for secure retirement income, as well as to the generation of future San Diegans who could be forced to pay the burden of the system's massive and illegal costs."

Interim Report No. 27, Fiduciary Law and the San Diego Pension Crisis, examines ERISA's strict standards for managers of pensions and enforcement actions:

- Department of Labor will take legal action under ERISA against pension plan officials who fail to operate a plan prudently and for the exclusive benefit of participants.

(MORE)

- ERISA also contains administrative and enforcement procedures, calling for criminal penalties and also for civil enforcement by participants, beneficiaries, fiduciaries, or the Secretary of Labor.
- The law also gives authority for investigations to the Department of Labor.

The report also provides an overview of how the San Diego City Employees' Retirement System Board and City officials failed in its duty to keep the pension plan in conformity with requirements that are financially sound. Among the violations:

- Failing to collect full price for purchased pension service credits sold;
- Allowing purchased service credits to be used to meet the five-year vesting and 20-year early retirement requirement;
- Allowing elected officials to buy pension service credits for years beyond the period permitted by term limits; allowing SDCERS trustees and staff to participate in decisions in which they have a personal stake in keeping the unlawful pension benefits;
- Allowing the union presidents who are not plan participants to be in the City pension plan;
- Waiving interest on service credits bought by one union president;
- Allowing a union president on the pension board to get a personal benefit in connection with his effort to persuade the board to approve the increased benefits/ decrease contribution deal, which plays a large role in the pension shortfall;
- Allowing union members to vote on matters urged upon them by their union attorney and union president in which the union president has a personal financial interest.

To view Interim Report No. 27, *Fiduciary Law and the San Diego Pension Crisis*, visit www.sandiegocityattorney.org, click" Significant Reports and Legal Documents."

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